

**CYBERSPACE COMMITTEE**

Business Law Section

State Bar of California

**CALIFORNIA STATE LEGISLATION TRACKING****2005-2006 LEGISLATIVE SESSION**

TOPIC		BILL NO.	DATE INTRODUCED	AUTHOR	STATUTES	SUBJECT	STATUS
Spyware	SB	92	1/14/05	Murray	Add Section 22947.9 to B & P Code re Spyware	Authorizes the recipient of spyware or software or ISP to bring an action for actual damages, with liq. Damages from \$1,000 to \$1 million dollars (per version of software). Also makes violation a crime, punishable as misdemeanor with penalties including \$1,000 fine and/or up to 1 year in jail.	9/7/05 place on inactive file
Privacy; telephone calling pattern records or list	SB	202	2/10/05	Simitian	Add 638 to Penal Code	Makes it a crime to use or sell data or information re telephone calling pattern records or list without the written consent of the subscriber whose information is contained in the calling pattern, record or list	Passed Sen. 5/9/05; Hearing : 3/21/06 ASM Pub Safety; 3/22/06 passed comm.. but first re-referred to Com. On Util. & Commerce; 5/4/06 from com. with author's amendments, re-referred to committee; 6/28 re-referred to APPR; 8/10/06, passed committee; 8/14/06 to third reading
Education Technology	AB	307	2/9/05	Chavez	Education Code 57871.5	Requires a school district's education technology to include education regarding copyright laws and illegal file sharing	Passed AS as amended 1/26/06; 2/2/06 to Sen. Com on Ed.; 6/22/06 passed committee and to APPR; 8/9/06 passed APPR; 8/10/06, read second time , amended and to third reading
Personal Information; Driver's Licenses	SB	433	2/17/05	Simitian	Civil Code 1798.90.1	Prohibits DMV from issuing, renewing, duplicating or replacing a driver's license or ID card if the license or card uses radio waves to either transmit personal information remotely or enable personal information to be read from the license or card remotely	Passed SEN 1/26/06; 2/16/06 to AS B&P and JUD committees; 5/30/ re-referred to committees on JUD and TRANS; 6/14/06 passed JUD as amended; 6/27/06 passed TRANS; 6/28/06 read second time, to third reading
Telecommunications; Data; Charges for	SB	440	2/17/05	Speier	Article 6 (commencing with	Requires providers of mobile data or telephony service to give written	3/15/06 Re-referred to RLS with author's

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services					Section 2899) is added to Chapter 10 of Part 2 of Division 1 of the Public Utilities Code	notice of subscriber's potential liability for unauthorized use of the service and means for subscriber to notify provider in the event of theft or other loss of a mobile data or telephony communications headset or other device. Would limit subscriber liability for unauthorized use prior to receiving notice to \$50.00	amendments;5/9/06 passed SEN: 6/27/06 passed U&C; 8/14/06 to third reading
State Computers; Prohibited Use; Obscene Matter	AB	546	2/16/05	Garcia	Govt. Code 8314.5	Makes it unlawful for person to knowingly use state computer to download or view obscene matter	Passed AS as amended 1/23/06; 3/23/06 re-referred to Coms. on B&P and Jud.w/ author's amendments; 4/6/06 amended and re-referred to committee; 8/10/06 passed SEN, back to AS to consider amendments; 8/14/06 SEN amendments concurred in, to ENROLLMENT
Identity Information Protection Act of 2005	SB	768	3/16/06	Simitian	Article 4 (1798.9 et seq) added to Chapter 1 of title 1.8 of Part 4, Div. 3 Civil Code	Require RFID to meet specified requirements and that reading of RFID without authorization will be a crime punishable by up to 1 year in jail and \$5,000.00 fine.	5/31/05 passed SEN; 8/8/05 placed on inactive file list ; 8/8/06 from AS inactive file to third reading
Broadband Telecommunications Service	SB	850	2/22/05	Escutia	A law relating to telecommunications	This bill as amended would make Legislative findings and declarations relating to telecommunication services, and would state the intent of the Legislature to enact legislation relating to encouraging fair competition in the provision of video service, encouraging the widespread build-out of state-of-the-art video service, providing for a state-issued franchise as an alternative to obtaining a local franchise, and permitting existing cable operators to transition to a new state-issued franchise, as	Passed SEN 1/26/06; 3/2/06 to As Com on U&C, 3/9/06 from com w/author's amendments, re-referred to comm..

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						provided. The bill would also state the Legislature's intent that legislation enacted to achieve those purposes not alter local governmental control of the local right of way with regard to the construction of telephone lines, as provided.	
Electronic Commercial Service	AB	1211	2/22/05	Torrico	Civil Code 1789.3 (Electronic Commerce Act of 1984); (nonsubstantive change)	Requires provider of electronic commercial service to provide specified information annually to customer	1/31/06, from committee, filed with the Chief Clerk pursuant to Joint Rule 56. Died pursuant to Art. IV, Sec 10(c) of the Constitution
Health Care Records	SB	1338	2/22/06	Alquist	Add part 4 to Div. 1 Health and Safety Code (commencing with section 1000)	Establishes a Heath Care Infrastructure Authority and requires a plan to require every Californian to have an electronic health care record by the year 2010 and specifies content of the plan	3/2/06 to Sen. Comm on Health and RLS; 4/20/ 06 passed Heath Comm., 4/20/06 re-referred to Comm. On Appr.; 5/8/06 placed on Appr. suspense file; 5/9/06 from comm. w/author's amendments; 5/17/06 from comm.. w. author's amendments; 5/30/06 passed SEN: 6/21/06 passed HEALTH Comm.; 6/28/06 placed on APPR suspense file
Phishing	SB	1388	2/21/06	Poochigian	Add section 530.55 to Penal Code	Makes it a crime to engage in phishing activities, which may be punished by a fine and jail as specified (\$1,000-\$10,000)	Set for Hearing 4/4/06 in Comm. On Pub. Safety; passed comm. 4/24/06, referred to com. on APPR;.set for hearing May 8; 5/30/06 Passed SEN ; 6/20/06 passed PUB Safety Comm; 6/28/06 placed on APPR Comm. suspense file
Privacy; personal information; security	SB	1512	2/23/06	Machado	Amends Civil Code 1798.82	Requires notice of breach of security of data to any resident whose unencrypted personal information was acquired by an unauthorized	3/9/06 to Sen. Jud.

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						person. Permits substitute notice of breach to be provided if the person or business demonstrates that the cost would exceed \$500,000 (raising threshold from \$250,000)	
Telephone records: obtaining telephone calling pattern record or list	SB	1651	2/24/06	Maldonado	Amends Civil Code 1798.92	Provides private right of action by person whose telephone calling pattern or records have been willfully obtained	3/9/06 to Sen. Jud. and Pub. Safety Committees
Telephone records: selling or obtaining of telephone calling pattern records or lists	SB	1665	2/24/06	Figueroa	Add Penal Code Section 632.2	Makes it a crime to knowingly procure, attempt or conspire to procure personal telephone calling pattern record or list without authorization by any fraudulent, deceptive or false means. Makes it a crime to sell such information	3/9/06 Referred to Coms . On Jud and Pub S.; Set for hrg. 4/4/06; 3/29/06 hrg. Cancelled at request of author
Privacy; personal information; obtaining by fraudulent, deceptive or false means	SB	1666	2/24/06	Bowen	An act to amend 1798.8 Civil Code and add 1798.83.5 to Civil Code relating to personal information	Bill would add telephone calling pattern record or list to definition of "personal information" and prohibit use or sale of such information. Bill will also prohibit the obtaining or attempting to obtain, or causing or attempting to cause the disclosure of, personal information about a customer or employee of a business through specified methods, such as by making false, fictitious, or fraudulent statements or representations, with specified exceptions. The bill would provide civil remedies for the violation thereof, and would make related and conforming changes in that regard .	3/9/06 to Sen. Jud. Comm.4/5/06 passed comm.; 4/20/06 passed Sen., read in AS first time 5/30/ to B&F and JUD; 6/20/06 passed B&F, re-referred to JUD; 6/29/06 passed JUD as amended; 8/8/06 read second time, to third reading
Absentee Ballots; Online information	SB	1725	2/24/06	Bowen		Requires election officials to establish procedures by which absentee voters may confirm receipt of their absentee ballots	To Comm ER&CA; 4/6/06 passed comm., re-referred to APPR; 5/30/06 passed SEN; 8/7/06 passed E&R as amended, and re-referred to APPR; 8/10/06 from Comm with author's

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							amendments, re-referred to Comm.
Consumer Rebates	SB	1737	2/24/06	Figueroa	Adds Chapter 23.5 to Div. 8 of B&P Code	Adds requirements for consumer rebates, including requirement that consumer receive at least 30 days to submit request	5/11/06 passed Sen.; 6/29/06 passed B&P Comm.; 8/8/06 to third reading
Public Instruction; Internet Safety Curriculum	SB	1740	2/24/06	Murray	Adds chapter 5.8 to Part 28 of Education Code	This bill would require the State Department of Education to develop and maintain Internet safety curriculum guidelines for use by local educational agencies. The bill would also require the guidelines to include, but not be limited to, specified subjects (such as importance of avoiding in person meetings and using spyware and anti virus software). The bill would also require the department to distribute the guidelines to local educational agencies , upon approval of the guidelines by the State Department of Education.	3/9/06 to RLS Comm.; 4/20/06 amended; 5/2/06 passed ED comm., re-referred to APPR, set for hearing 5/15/06; 5/30/06 passed SEN; 6/12/06 to Comm. ED; 8/7/06 passed ED, re-referred to APPR
Information privacy	SB	1744	2/24/06	Bowen	Amends 1785.11 of Civil Code	Starting on 9/1/08, will revise procedures for temporarily lifting or removing a security freeze on a consumer credit report, such as a toll free telephone number for taking requests from consumers to temporarily lift freeze, which then must occur within 15 minutes	3/9/06 to Sen. Jud.; 5/3/06 passed Comm., 5/4/06 amended, to third reading; 5/11/06 passed SEN; 5/30/06 to B&P and JUD comms., 6/19/06 failed passage in Comm., reconsideration granted
Internet Free Gift Offers	AB	1958	2/6/06	Leslie	Adds Article 2.5 (commencing with Section 17545) to Chapter 1 of Part 3 of Division 7 of the Business and Professions Code, relating to the Internet.	This bill would require that any advertisement or commercial e-mail advertisement, as defined, that promotes or solicits a consumer to redeem an Internet free gift offer, as defined, to provide the consumer with a specified disclosure statement. The bill would require the disclosure statement to contain a check-off box that confirms that the consumer has read and agreed to the terms before	2/6/06 read first time; to print; 3/23/06 referred to B&P; 5/1/06 from committee chair w/author's amendments; 5/2/06 re-referred to Comm. on B&P; 5/9/06 passed B&P; 5/15/06 passed AS; 5/25/06 to B&P, ED and JUD; 6/22/06 withdrawn from

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						redeeming the offer .	Committee, re-referred to RLS
Global Positioning System Capabilities	AB	1989	2/9/06	Garcia		Required public utilities commission to require every telecommunications service provider that sells to a customer a handset device that is equipped with GPS capability to disclose to the customer the existence of that capability	2/9/06 read first time; 2/21/06 to Com. on U&C
Hazardous Waste, Electronic Devices	AB	2202	2/22/06	Saldana	Amends 25214.10 of Health and Safety Code relating to hazardous waste	Revises disposal regulations relating to electronic devices. This bill would exempt from regulation devices not included in definitions set forth under the ROHS directive (See 1A to Directive 2002/96/EC). This bill expands, by January 1, 2008, the prohibition on the sale of electronic devices that contain certain heavy metals and fire retardants from electronic devices containing larger video monitors to virtually all consumer electronic devices that contain these substances.	3/29/06 passes comm. on Nat. Res., re-referred to ES and TM; 4/26/06 passed comm. and ref to Appr.; 5/30/06 passed AS; 6/15/06 to EQ Comm.; 8/7/06 passed EQ as amended and re-refer to APPR
Vehicles; Dealer; Data Security	AB	2291	2/22/06	Evans	Adds 11713.25 to the Vehicle	Prohibits computer vendor, franchisor or other person to access, copy, create or modify a confidential dealer's computer record or personally identifiable consumer data from a dealer without first obtaining an express written consent from the dealer. Prohibits requiring a dealer, as a condition of doing or continuing to do business, to give express consent	3/14/06 referred to AS B&P Comm.; 4/6/06 passed B&P; re-referred to APPR; 4/27/06 passed APPR; 5/4/06 to third reading
Crime	AB	2304	2/22/06	Runner	Amends 11165.7 and 11166 of the Penal Code	Expands the list of persons required to report certain child abuse to law enforcement to include commercial computer technicians	3/2/06 to Comm on Pub. S.; 4/27/06 passed AS; 5/4/06 to Comm. on Pub. S; 6/27/06 final hearing, failed passage in Comm.
Network Security	AB	2415	2/24/06	Nunez	Adds Chapter 34 (Section 22948.5 et	Prohibits a person or entity from manufacturing or selling a device in	3/23/06 to com on U&C; 4/26/06 from committee

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					seq) to Div 8 of the B & P Code	this state that enables connection to a network without including a warning in its software that alerts the consumer of certain security factors if he or she chooses to set up the device without security protections. The bill would also require a person or entity that manufactures or sells a computer in this state to distribute or sell the computer with the computer's file-sharing feature in off mode	chair w/author's amendments; re-referred to U&C;5/16/06 passed U&C as amended; 6/28/06 passed JUD; 8/10/06 read third time, amended; 8/14/06 to third reading
Criminal Procedure; court orders; service records	AB	2519	2/24/06	Umberg	Amend 1326.1 Penal Code	Bill would allow a judge to order the production of certain, specified, service records relating to felony money laundering, fraud or embezzlement, including, but not limited to, records in the possession of a bank, credit union, savings association, phone company, electronic communication, and utility service providers upon a sufficient ex parte application by a peace officer. Would also allow the order to be made when the peace officer is investigating a violent felony.	3/14/06 to AS Comm on Pub.S. ; 4/5/06 passed Pub.S.; re-referred to APPR; 4/26/06 passed APPR;; 5/4/06 passed AS; 5/18/06 to PUB S; 6/21/06 withdrawn from committee, 8/7/06re-referred to JUD
Privacy Rights; personal identification documents	AB	2561	2/24/06	Torrico	Adds Article 13 (commencing with Section 11147) to Chapter 1 of Part 1 of Title 1 of the Government Code, relating to privacy.	Would require the California Research Bureau to submit a report to the Legislature on security and privacy for government-issued, remotely readable identification credentials. It would require the bureau to submit the report within 270 days of receiving a request from the Office of the Speaker of the Assembly, or before June 30, 2007, whichever is earlier. It would require the bureau to establish an advisory board, to be comprised of specified government officials and representatives from industry and privacy rights organizations, to make recommendations and provide	3/24/06 to Jud and B&P; 5/1/06 passed by Jud, and re-referred to Appr. ; 5/31/06 passed AS; 8/7/07 passed Sen JUD and re-referred to APPR; 8/10/06 to third reading

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						technical advice to the bureau in preparing the report. Would require the California Research Bureau to submit a report to the Legislature on security and privacy for government-issued, remotely readable identification credentials. It would require the bureau to submit the report within 270 days of receiving a request from the Office of the Speaker of the Assembly, or before June 30, 2007, whichever is earlier. It would require the bureau to establish an advisory board, to be comprised of specified government officials and representatives from industry and privacy rights organizations, to make recommendations and provide technical advice to the bureau in preparing the report.	
Crime; gang members	AB	2944	2/24/06	Baca		Declares intent of legislature to require criminal street gang members who are released on parole to be outfitted with GPS tracking device	2/27/06 read first time
Telecommunications; Internet network neutrality	SJR	24	2/23/06	Murray		Measure would urge Congress and the President to encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet based on 4 principles stated in the measure	3/9/06 referred to Comm. On E.U. and C.; set for hearing 5/2/06; 4/26/ hrg cancelled at request of author; 6/19/06 new hearing cancelled at request of author